



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

September 25, 2000

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM:

Robert Raben

Assistant Attorney General

SUBJECT:

Weekly Report for September 25, 2000 - September 29, 2000

KEY ISSUES

Wen Ho Lee: Three Committees (Senate Intelligence, House Intelligence and a joint hearing with Senate Judiciary and Senate Intelligence) have scheduled hearings about the prosecutorial decisions in this case for September 26. Senate Intelligence will have a morning and afternoon session; the morning session will be a joint open hearing with Senate Judiciary. The Senate Intelligence session in the afternoon will be closed. FBI Director Freeh and U.S. Attorney Norman Bay will appear at both hearings for the Department. You will testify at the House Intelligence closed hearing in the afternoon.

Representatives from the Department and the Bureau briefed members and staff of Senate Judiciary on September 18 in advance of their upcoming hearing. (Walter)

THE WEEK AHEAD

Bankruptcy: Senator Lott introduced a bankruptcy bill that is basically the Senate passed bill stripped of the tax and minimum wage provisions. We understand that the intent is to attach it to an appropriations bill. Objectionable provisions on rent-to-own and the Federal Debt Collection Practices Act have been deleted. However, also deleted is Administration-supported language dealing with abortion clinics. The Administration sent a letter late last week to the Majority Leader reiterating his intent to veto this latest version of the bill. Further, the President indicated that attaching bankruptcy reform to legislation that commands widespread support will not cure its defects and he will not hesitate to veto an otherwise acceptable bill if this bankruptcy bill is attached. (Wilson)

VAWA: VAWA is still being held by the Republican leadership in the House and Senate. Last Friday, the Department sent a fax update to all congressional offices, advising them of the upcoming expiration of VAWA on September 30, 2000, and the need for action on the House and Senate bills. (First, Burton)

H.R. 3125, the Internet Gambling Prohibition Act: The Department has been advised that this bill may be considered by the full House sometime this week under a closed rule. The bill is opposed by the Administration. (Daley)

Senate Intelligence Authorization Bill: Department representatives, along with the Central Intelligence Agency and the State Department, briefed Members of the House Intelligence Committee (Goss, Chair) on provisions in the Senate bill related to leak prosecutions, treaties, and FISA, on September 21. The bill is being hotlined but has a hold because of attempts to attach a Kyl amendment. We are doing a views letter in opposition. (Walter)

Corrections and Parole in D.C.: On September 25, Commissioners and staff from the Parole Commission, staff from the Bureau of Prisons, Marshals Service, the Office of the Deputy Attorney General, and OLA, a representative of the D.C. Department of Corrections, the D.C. Corrections Trustee, the Acting D.C. Pretrial Services and Offender Supervision Trustee, and a representative of the Mayor's Office met with Delegate Eleanor Holmes Norton to hear her concerns about corrections in D.C. as there are overlapping agencies with authority over inmate placement in halfway houses and there currently is not enough bed space for those paroled. The Deputy Attorney General's Office is coordinating the effort to ensure that the needs are met. (Scott-Finan)

White House E-Mail Investigation: On September 26, Deputy Assistant Attorney General Alan Gershel is expected to testify under subpoena before the House Government Reform Committee. The Committee's pre-hearing correspondence suggests that the hearing will focus on the Department's decision not to appoint a special counsel to investigate the Vice-President and, particularly, whether certain White House e-mail communications had been considered in connection with that decision.

[REDACTED]
(Burton)

FOIA EXEMPTION (b)5

Trafficking in Persons: We understand that the conferees on H.R. 3244 may meet as early as September 26. We are working with NSC, OMB, the State Department, and other interested agencies to provide the conferees with a detailed views letter setting forth the Administration's recommendations for improvements to the bills passed earlier this year by the House and Senate, respectively. (First, Jones)

Sentencing Commission Review: The Criminal Justice Subcommittee (Thurmond, Chair) of the Senate Judiciary Committee will hold a hearing on the U.S. Sentencing Commission and reasons for downward departures from the guidelines. Laird Kirkpatrick, of the Criminal Division, will testify on behalf of the Department. U.S. Attorney for the Western District of New York Denise O'Donnell and U.S. Attorney for the Northern District of New York Daniel French will accompany him to answer questions. (Tanner, Scott-Finan)

H-1B Visas: The Senate filed a cloture motion on September 22 on Senator Abraham's bill to increase the number of H-1B visas. The Senate will vote on the motion on September 26. It will likely pass. This motion would end debate on the bill so that the Senate could proceed to a vote. The underlying bill has several problems, including insufficient funds for DOJ to administer the H-1B program, as well as inadequate labor provisions. The Administration is in the process of determining how to respond to the cloture motion. In addition, the Administration and Senate Democrats are seeking to add the Latino and Immigrant Fairness Act to the H-1B bill. This Act encompasses three things: "parity" for the Guatemalans, Salvadorans, Hondurans, Haitians and

Liberians left out of NACARA and HRIFA., the reinstatement of 245(i), which allows immigrants to adjust their status without leaving the U.S., as long as they pay a penalty of \$1,000, and a change in the registry date that would allow many immigrants in the late amnesty class to adjust their status to permanent resident. (First)

H.R. 5018, the Electronic Communications Privacy Act: On September 26, the House Judiciary Committee (Hyde, Chair) will continue to mark up this bill. The Department of Justice, and state and local law enforcement is opposed to the bill as introduced and to the proposed Manager's Amendment. (Daley)

Federal Prison Industries: The Oversight and Investigations Subcommittee (Hoekstra, Chair) of the House Education and the Workforce Committee has noticed a hearing on the efforts of Federal Prison Industries to increase commercial sales for September 26. Staff for Chairman Hoekstra has advised that the hearing will focus on the impact on small business of FPI's drawing down excess government equipment which they use to train prisoners but then are selling in the commercial market. FPI will not be invited to testify at this hearing; however, GSA has been invited to testify. (Scott-Finan)

Indian Affairs: On September 27, the Senate Committee on Indian Affairs (Campbell, Chair) may consider S. 2917, the Santo Domingo Claims Settlement Act. (Pearlman)

Motor Vehicle Equipment Defect Notification: Congress is currently considering legislation in response to the recall of certain Firestone tires. On September 20, the Senate Commerce Committee (McCain, Chair) approved S. 3059 and the Subcommittee on Telecommunications, Trade and Consumer Protection (Tauzin, Chair) of the House Commerce Committee began consideration of H.R. 5164 on September 21. The subcommittee will continue to mark up the bill on September 27. (Graupensperger)

Charter Schools: The House Education and the Workforce Committee (Goodling, Chair) will hold a hearing on the rise of charter schools on September 28. Charter school founders and parents of children who attend charter schools are the invited witnesses. (Scott-Finan)

H.R. 809, the Federal Protective Service Reform Act: The Senate Committee on Environment and Public Works (Smith, Chair) will hold hearings on September 28 regarding this legislation. The Department will not be testifying but may provide written statements for the record on the role of Justice agencies in securing federal facilities. (Daley)

Antitrust Issues in Agriculture: On September 28, the Senate Judiciary Committee's Subcommittee on Antitrust, Business Rights and Competition (DeWine, Chair) will hold a hearing on antitrust issues in agriculture. Deputy Assistant Attorney General John Nannes will testify. (Owen, Slover)

Hearing about Preventing and Combating Crime: The House Judiciary Committee's Subcommittee on Crime (McCollum, Chair) postponed its hearing scheduled for September 20

about programs and policies that have been effective in preventing and combating crime. The Subcommittee has tentatively rescheduled for October 2. The Department has not yet selected its witness. (Graupensperger)

Elian Gonzalez and Ruby Ridge Hearing: Senator Specter's DOJ Oversight Task Force has scheduled a hearing for October 3 tentatively entitled, "Lessons Learned from Crisis Situations." The two case examples the task force wants to examine are DOJ's actions in Elian Gonzalez and Ruby Ridge. We do not yet know who will be asked to testify. (First)

Waco: The House Government Reform Committee (Burton, Chair) plans to hold a hearing on October 5 to ask the Attorney General about Waco and other matters, particularly any documents responsive to Committee subpoenas including, but not limited to, Waco. Staff advise that they will send a letter that specifically identifies the documents of concern to the Committee. Our production of documents to the Committee now will include e-mail records that we have reconstructed at the request of Special Counsel Danforth, which will delay our completion of this document production to the Committee. (Burton)

THE WEEK IN REVIEW

Nominations: The nomination of Mary Lou Leary, to be Assistant Attorney General for the Office of Justice Programs, was sent to the Senate on September 22. (Scott-Finan)

Worst Case Scenario: On September 22, at the request of staff, the Department and the Bureau met with Senator Lautenberg to discuss our analysis of the use of off-site consequence analysis data by terrorists and his belief that chemical facility security is not adequate. (Daley)

Port Security: On September 22, representatives of the Office of the Deputy Attorney General, the Criminal Division and the Office of Legislative Affairs met with staff of Senators Hollings and Graham to discuss legislation concerning port security. (Graupensperger)

Drug Kingpin/Foreign Asset Controls: On September 21, Deputy Assistant Attorney General Mary Lee Warren of the Criminal Division and Chief of Intelligence Steven W. Casteel of the Drug Enforcement Administration testified before the Judicial Commission on Foreign Asset Control related to procedures implementing controls on freezing drug kingpin assets. Documents requested by the Commission will be provided after review and coordination with other agencies for release is complete. (Walter)

Public Officials Protection Act: On September 21, Senator Schumer introduced the "Public Officials Protection Act," a Department of Justice proposal to enhance protection of federal, state and local employees, as S. 3094. (Graupensperger)

DNA Backlog Reduction: On September 21, representatives from OPD and OLA met with Congressman Scott's staff to discuss issues relating to H.R. 4640, a bill that would provide grants to states to reduce their backlogs of DNA samples from convicted offenders and to conduct analysis of DNA from crime scene samples. (Graupensperger)

Inspector General Report on ICITAP: On September 21, Acting Inspector General Glenn Fine, Deputy Attorney General Eric Holder, Jim Robinson and Jack Keeney of the Criminal

Division, and Steve Colgate of JMD testified before the House Judiciary Committee (Hyde, Chair) hearing about Inspector General's Report regarding allegations of misconduct at ICITAP and the Department's response to the Report. We worked with the Criminal Division, the Justice Management Division and others in the Department to provide documents in response to the Committee's requests and otherwise prepare for the hearing. The Judiciary Committee's requests included the declination memorandum regarding Mr. Bratt that was prepared by the United States Attorney for the District of Columbia; the House Government Reform Committee subpoenaed the same document. We provided access to the document to staff for both Committees.

The House Government Reform Committee has now issued a subpoena to the Inspector General for all documents relating to his ICITAP investigation and we are consulting with the IG about how best to respond to that demand. The subpoena is returnable on October 2, 2000. (Burton)

Beryllium: On September 21, Deputy Associate Attorney General Richard Jerome testified before the House Judiciary Committee's Subcommittee on Immigration and Claims (Smith, Chair) at a hearing on six legislative proposals to compensate beryllium-related illnesses. (Pearlman, Burton)

Mental Health Issues: On September 21, the House Judiciary Committee's Subcommittee on Crime (McCollum, Chair) held a hearing about the impact of mental illness on the criminal justice system. The Department did not provide a witness but provided a statement for the record. (Graupensperger)

Italian American Bill: On September 21, H.R. 2442, a bill to provide for the preparation of a government report detailing injustices suffered by Italian Americans during World War II and a formal acknowledgment of such injustices by the president, was held over by the Senate Judiciary Committee. DOJ has informally provided our concerns about this legislation to staff for Senators Torricelli and Feingold and House sponsors of the bill. (Scott-Finan)

Price-Fixing: On September 21, the House Judiciary Committee (Hyde, Chair) approved legislation intended to overturn court rulings and doctrines in order to permit OPEC governments to be sued under the antitrust laws for operating a price-fixing cartel. (Slover)

Sales of Violent Entertainment to Children: On September 20, the Senate Judiciary Committee (Hatch, Chair) held a hearing on antitrust issues raised by entertainment industry efforts to restrict marketing and sales of violent entertainment to children. The Department did not testify at this hearing. (Owen, Slover)

Non-Acquiescence: On September 20, the House Judiciary Committee (Hyde, Chair) passed H.R. 1924, the Federal Agency Compliance Act, as amended. This bill would require federal agencies to follow appellate court rulings in dealing with disputes over benefits. We have testified and sent comments on this legislation opposing it. All the Democratic amendments attempting to scale back the scope of the bill, failed. (Wilson)

Merit Systems Protection Board (MSPB) Administrative Dispute Resolution Act: On September 20, the House Judiciary Committee passed H.R. 3312, the MSPB Administrative Dispute Resolution Act. This bill would encourage federal employees to use arbitration to settle workplace disputes. The Administration supported this bill. (Wilson)

Native Hawaiian Bill: On September 20, the House Resources Committee (Young, Chair) unanimously voted out H.R. 4904. It is possible that the bill will be included on the suspension calendar. (Ho)

Local Law Enforcement Block Grant Program: On September 19, the House passed H.R. 4999 under suspension of the rules. This bill would authorize a block grant program (which has been funded for several years without authorizing legislation) that provides funding to state and local law enforcement agencies for a broad array of purposes. (Graupensperger)

Hate Crimes: On September 18, representatives of the White House; staff from the offices of Senator Kennedy (both Judiciary and Armed Services Committees) and Congressmen Gephardt and Conyers; representatives of the Civil Rights Division, the Deputy Attorney General's office, and OLA, along with the hate crimes coalition, met to discuss the next steps the Administration should take and the feasibility of a vote on a motion to recommit if the hate crimes language were deleted from the Defense Authorization bill. (Scott-Finan)

Federal Prisoner Co-Pay: On September 19, the House passed, under suspension of the rules, H.R. 1349, which would require a co-payment from federal prisoners who see a doctor at their own request. (Scott-Finan)

Adopted Orphans Naturalization Act: H.R. 2883, a bill to streamline the naturalization of adopted orphans, passed the House last week under suspension of the rules. The Immigration and Naturalization Service and the Office of Legislative Affairs worked with Committee staff to make this a bill that we strongly support. (First)

Fix '96: A bill by Congressmen McCollum and Frank, as well as Chairman Hyde, which would alleviate some of the harsh consequences to criminal aliens created by IIRIRA passed the House last week under suspension of the rules. The Administration supports the goals of this bill, [REDACTED] Currently, the bill covers only aliens whose crimes were committed prior to 1996. In addition, the bill contains a provision that could require INS to parole in to the U.S. aliens who were deported but may benefit under this bill. [REDACTED]

(First)

Meeting with Senator Steven's Staff: On September 20, representatives of the Office of the Associate Attorney General, the Office of Tribal Justice, and the Office of Legislative Affairs as well as the U.S. Attorney for Alaska met with staff of Senator Steven to discuss the problem of alcohol abuse in Alaska Native villages and ways of addressing the problem. (Ho)

Religious Worker Visa Extension: On September 19, a bill extending the religious worker visa for another three years passed the House under suspension of the rules. The Administration supports this extension. (First)

Drug Use in America: On September 19, the House Government Reform Committee's Subcommittee on Criminal Justice, Drug Policy and Human Resources (Mica, Chair) held a hearing on drug use trends in America. Acting Director of the National Institute of Justice Julie Samuels testified for the Department. (Tanner)

FOIA EXEMPTION (b)(5)

Education Department Finances: On September 19, the House Education and the Workforce Committee's Subcommittee on Oversight and Investigations (Hoekstra, Chair) held a hearing on financial management issues at the Department of Education. The Department declined to provide Randall Eliason, Chief of the Public Corruption and Government Fraud Section of the D.C. U.S. Attorney's office, as a witness. Office of Legislative Affairs staff and Mr. Eliason met with Chairman Hoekstra on September 13 and Ranking Minority Member Roemer on September 18 about public record information. (Scott-Finan)

Torres-Martinez: On September 18, the House passed, under suspension of the rules, H.R. 4643, the Torres-Martinez Desert Cahuilla Indian Claims Settlement Act. This legislation, endorsed by the Departments of Justice and Interior, will settle a variety of land claims related to the trust lands of the Torres-Martinez in Southern California. (Pearlman)